

U.S. Department of Justice

*United States Attorney
Southern District of New York*

86 Chambers Street
New York, New York 10007

MEMO ENDORSED

April 13, 2024

By ECF

The Honorable Jennifer H. Rearden
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Burton v. United States*, Case No. 18 CV 2039 (JHR)

Dear Judge Rearden:

This Office represents defendant the United States, sued under the Federal Tort Claims Act, and defendants Anthony Bussanich, Robert Beaudouin, Ysmael Joaquin, Kimberly Shivers, Lorenzo Barazza, Gerald Castillo, Wilson Silva, Quentin Holzendorf, Terrence Thomas, Rosalind Silvia, and Shaadiq Shakir, all current or former employees of the Bureau of Prisons (“BOP”), sued in their individual capacity under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971) (the “*Bivens* defendants”). The case arises from the death of Franklin Sanchez, a Colombian national extradited to the United States on criminal charges who died while in custody at the MCC. Plaintiffs are the Estate of Mr. Sanchez and family members. On behalf of all parties, we write to provide a status update on discovery and to respectfully request that the discovery deadlines be extended by 45 days, from April 30 to June 14. This is the parties’ twelfth request for a modification of the discovery schedule. These other requests – submitted due to delays in discovery caused by closing of the MCC and relocation of staff, COVID, health problems of counsel, locating incarcerated and released inmates – have been granted.

Since the last status update letter of February 29, Dkt. No. 130, the parties have continued to work cooperatively to resolve outstanding discovery issues, specifically:

1. Witness Interviews and Depositions. Plaintiffs have sought to interview 23 current or former inmates housed at different BOP facilities who may have relevant information concerning Mr. Sanchez’s death. The Government has facilitated the interview of three inmates incarcerated in BOP facilities. In addition, as to two inmates released to halfway houses, Plaintiffs’ counsel attempted but was unable to contact them due to restrictions on communication into halfway houses. The Government has agreed to assist counsel to contact these inmates as well as a third inmate released to home confinement, to determine if these persons should be deposed as well. The depositions of two paroled inmates have been tentatively scheduled for April 23 and April 24. The Government is

making arrangements for two incarcerated witnesses to be deposed in a BOP facility, tentatively scheduled for April 25 and April 30. The Government also intends to depose members of Mr. Sanchez's family.

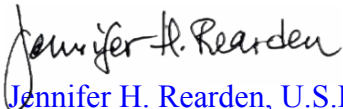
2. Rule 30(b)(6) Witnesses. In response to Plaintiff's Rule 30(b)(6) deposition notice, the Government has agreed to produce three BOP officials. The BOP Regional Correctional Services Administrator will testify concerning investigations of Special Investigation Supervisors, post order instructions, and documentation of inmate supervision. The Regional Medical Director will testify concerning medication administration, sick call requests, and inmate access to medication. The Chief of Records and Information Management Office will testify concerning document and retention policies. These witnesses will also testify concerning training in these respective topics.
3. Deposition of Shaadiq Shakir. Mr. Shakir's deposition has been rescheduled to April 26 to accommodate scheduling conflicts including his observance of Ramadan and recall for Army reserve training.

So that the parties can conclude the above remaining discovery tasks, we respectfully request that the fact discovery deadline be extended by 45 days, with a corresponding adjustment of the remaining discovery schedule. If granted, we respectfully request that the Court enter the attached proposed scheduling order to account for these changes.

Application GRANTED. By **Friday, May 24, Friday, June 21, and Friday, August 2**, the parties shall file a joint letter updating the Court on the progress of discovery.

The Clerk of Court is directed to terminate ECF No. 135.

SO ORDERED.


Jennifer H. Rearden, U.S.D.J.

Dated: April 22, 2024

Respectfully,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

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Encl.

cc: Plaintiffs' Counsel (by ECF)